

Halla na Cathrach  
Corcaigh  
T12 T997

City Hall  
Cork  
T12 T997

Brian McCutcheon,

McCutchen Halley  
Planning Consultants  
6 Joyce House  
Barrack Square  
Ballincollig

24/10/18

c.c. George McLellan, Kilfoylan Limited  
c.c. Moscato Ltd c/o Meitheal Partners

**RE: Section 5 Declaration Request for 27-29 Washington Street**

Dear Sir/madam,

Regarding the above section 5 declaration request I wish to advise as follows;

- (1) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar would, or would not, be development and would, or would not, be exempted development*

And having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000, as amended,
- Article 10 of the Planning and Development Regulations 2001 as amended,

It is considered that the use **is development and is not exempted development**

- (2) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development*, and based on the information supplied in this request and the fact that the use is not currently operational, it is considered that there are too many variables and uncertainties as to whether or not the use would or would not be development and

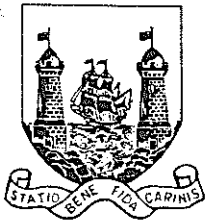
would or would not be exempted development **therefore the planning authority is not able to determine this request for a declaration based on the question before it.**

Regards,



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Paul Hartnett  
Assistant Staff Officer  
**Strategic Planning & Economic  
Development Directorate**



Halla na Cathrach  
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Cork  
T12 T997

~~George McLellan~~  
Kilfoylan Vale Limited  
6 Suffolk Street  
Dublin 2

24/10/18

c.c. McCutcheon Halley  
c.c. Moscato Ltd c/o Meitheal Partners

**RE: Section 5 Declaration Request for 27-29 Washington Street**

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And having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000, as amended,
- Article 10 of the Planning and Development Regulations 2001 as amended,

It is considered that the use **is development and is not exempted development**

- (2) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development*, and based on the information supplied in this request and the fact that the use is not currently operational, it is considered that there are too many variables and uncertainties as to whether or not the use would or would not be development and would or would not be exempted development **therefore the planning authority is not able to determine this request for a declaration based on the question before it.**

Regards,

*Paul Hartnett*

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Paul Hartnett  
Assistant Staff Officer  
**Strategic Planning & Economic  
Development Directorate**





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T12 T997

City Hall  
Cork  
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Moscato Ltd

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c/o Meitheal Partners  
15 fr Mathew Quay  
Cork

24/10/18

c.c. McCutcheon Halley  
c.c. Kilfoylan Ltd

**RE: Section 5 Declaration Request for 27-29 Washington Street**

Dear Sir/madam,

Regarding the above section 5 declaration request I wish to advise as follows;

- (1) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar would, or would not, be development and would, or would not, be exempted development*

And having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000, as amended,
- Article 10 of the Planning and Development Regulations 2001 as amended,

It is considered that the use is **development** and is **not exempted development**

- (2) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development*, and based on the information supplied in this request and the fact that the use is not currently operational, it is considered that there are too many variables and uncertainties as to whether or not the use would or would not be development and would or would not be exempted development **therefore the planning authority is not able to determine this request for a declaration based on the question before it.**

Regards,

*Paul Hartnett*

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Paul Hartnett  
Assistant Staff Officer  
**Strategic Planning & Economic  
Development Directorate**

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R 489/18

**Description:** Whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development and that the use of any of the floorspace outside the area outlined in blue as a separate bar or to provide ancillary bar space for the restaurant use:

- (a) Would be development as it would be a material change from the existing and permitted use of the floorspace primarily as a restaurant
- (b) Would not be exempted development as the change of use would contravene Conditions 2 of the permissions granted under Planning Register Ref. Nos. 16/36972 and 17/37662 and
- (c) Would not be exempted development as change of use would be inconsistent with the use specified by the applicant for the subject floorspace in the extant permissions.

**Applicant:** Brian McCutcheon on behalf of Kmont Property Holdings Limited

**Location:** Former Rachel’s Restaurant, 27-29 Washington Street, Cork

**Date:** 23/10/2018

### SUMMARY OF RECOMMENDATION

Various (see Section 3 of the report below)

This report should be read with the previous planner’s report on file dated 27/09/2018.

1. **Further information** was requested from the occupier and owner of the property under Section 5(2)(c) of the Act as follows:

*A Section 5 Declaration request (under the Planning and Development Act 2000 (as amended)) has been received by the planning authority relating to the former “Rachel’s” restaurant at 27-29 Washington Street, Cork. Section 5 provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may request in writing from the relevant planning authority a declaration on that question.*

*The question relates to whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development.*

*Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit the following information to enable the planning authority to issue the declaration on the question:*

- o *Clarify if the development being carried out would comply with the relevant permissions for the site (TP 16/36972 and TP 17/37662). In this regard full details should be submitted regarding the intended use i.e. extent of bar and restaurant use and works to the protected structure*

*Please ensure that any information you submit is received by the planning authority as expeditiously as possible.*

*In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.*

**2. Response to the request for further information:**

Patrick O'Toole (Meitheal Design Partners Architects) on behalf of the occupier of the property (Moscato Ltd.) responded to the request stating that: no unauthorised development is underway or envisaged, the change of use of the former "George Mills" premises is permitted under Planning Ref. 17/37662, a scheme of internal refurbishment is underway, increasing the aforementioned increase in footprint and altering the décor to better reflect the operational move from "fine dining" to "bistro/casual" dining and that no conservation concerns arise as no material alteration of any aspect of the architectural heritage is planning. In addition no additional signage other than that permitted occurs.

**3. Question before the planning authority:**

As outlined in the previous Planner's Report on file, the question related to: whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development and requests the planning authority to issue a declaration that the use of any of the floorspace outside the area outlined in blue as a separate bar or to provide ancillary bar space for the restaurant use:

- (d) Would be development as it would be a material change from the existing and permitted use of the floorspace primarily as a restaurant
- (e) Would not be exempted development as the change of use would contravene Conditions 2 of the permissions granted under Planning Register Ref. Nos. 16/36972 and 17/37662 and
- (f) Would not be exempted development as change of use would be inconsistent with the use specified by the applicant for the subject floorspace in the extant permissions.

In effect two separate questions are being asked:

1. The first question relates to: whether or not a separate bar outside the area outlined in blue would or would not be development and would or would not be exempted development. Condition 2 of TP 16/36972 for the change of use of part of the ground floor from retail to restaurant/bar use, states that: *the use shall be restricted to a restaurant with ancillary bar in the area so indicated and the premises shall not be used as a fast-food takeaway/restaurant.* The bar area is clearly shown on the floor plan as an area to the rear of the property adjacent to Little Cross Street and Hanover Street. Condition 2 of TP 17/37662 for the change of use of part of the ground floor (65sq.m) from office use (formerly George Mills Solicitors) for inclusion in the permitted restaurant and ancillary bar premises - 65sq.m. and change of use of part of the first floor (112sq.m) from office use (formerly George Mills Solicitors) to restaurant and ancillary bar use supporting the permitted ground floor restaurant and ancillary bar (16/36972), also states that: *the use shall be restricted to a restaurant with ancillary bar in the area so indicated and the premises shall not be used as a fast-food takeaway/restaurant.* A separate bar outside the area outlined in blue would materially contravene these conditions. As outlined in Article 10 (1) (b) of the *Planning and Development Regulations 2001* (as amended): *Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not – contravene a condition attached to a permission under the Act.* The use of the area outside of that outlined as a separate bar would therefore be development and would not be exempted development.
2. The second question relates to: whether or not the use of the floor space outside the area outlined in blue to provide additional ancillary bar space for the permitted restaurant use would or would not be development and would or would not be exempted development. It is considered that this question contains too many variables and uncertainties in terms of materiality and whether or not a purported use, which is not operational, would or would not be development and would or would not be exempted development, and therefore cannot be determined. This relates to a matter of either



compliance with a planning permission and/or its conditions or is a matter of planning enforcement. The planning authority is essentially not in a position to answer this question, as although the occupier states that the refurbishment works are to better reflect the operational move from "fine dining" to "bistro/casual" dining, which does not appear to imply a material change of use, the premises is not operational at present and this cannot therefore be effectively determined.

#### 4. CONCLUSION AND RECOMMENDATION

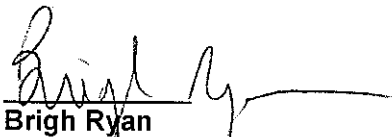
- (1) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar would, or would not, be development and would, or would not, be exempted development*

And having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000, as amended,
- Article 10 of the Planning and Development Regulations 2001 as amended,

It is considered that the use **is development and is not exempted development**

- (2) Insofar as the applicant's question relates to: *whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development*, and based on the information supplied in this request and the fact that the use is not currently operational, it is considered that there are too many variables and uncertainties as to whether or not the use would or would not be development and would or would not be exempted development **therefore the planning authority is not able to determine this request for a declaration based on the question before it.**

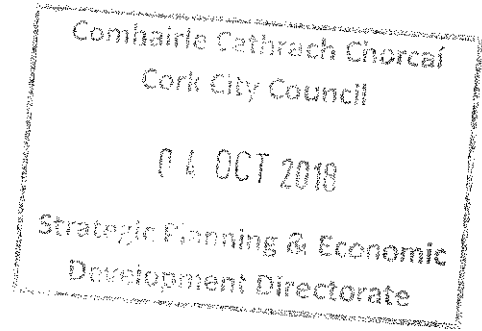


Brigh Ryan  
Acting Senior Executive Planner

**Note: Please notify all relevant parties: Brian McCutcheon on behalf of Kmont Property Holdings, Meitheal Partners on behalf of Moscato Ltd.\* and George McLellan (Kilfoylan Ltd.)**

**\*(Paul Montgomery is no longer party to any Moscato matters)**

Meitheal  
design partners  
Architects



Mr. Paul Hartnett  
Strategic Planning and Economic Development Directorate  
City Hall  
Anglesea Street  
Cork

2<sup>nd</sup> October, 2018

Our ref. 17212/17212-let-010/POT/AB

Dear Mr. Hartnett,

Re: **Section 5 Declaration Request for 27 – 29 Washington Street.**

We are in receipt of your letter dated 27<sup>th</sup> September, 2018.

Thank you for the advice therein and for the opportunity to respond.

My client is aggrieved at same and requests that you consider the commercial nature of the declaration request and the vexatious motivation for same.

My client is happy to instruct us to respond on his behalf in this instance, but should further such declaration requests arise, the question of costs must be addressed. We will advise the Council of the advancement of civil action should same ensue to allow you better assess further frivolous or vexatious correspondence.

We clarify matters as follows;

- We act for Moscato Ltd. Mr. Paul Montgomery is no longer party to any Moscato matters and further correspondence should be addressed to Moscato Ltd. c/o this office, or to their registered address, 28 Washington Street, Cork.
- The premises, as permitted under planning ref. 16/36972, and as extended by planning ref. 17/37662 enjoys permission for a restaurant and ancillary bar.
- Works are currently underway at the premises to alter the internal design of the premises and to occupy the ground floor space referred to in planning permission ref. 17/37662.
- The works involve internal decorative and minor layout changes. No material impacts on any heritage aspect of the Protected Structure arise.



- The works are the subject of a current application for a Fire Safety Certificate to Cork City Council, and are being procured on foot of a 7 Day Commencement Notice lodged with the Council. The requirement for the Fire Safety Certificate arises primarily as a result of occupying the modest increased ground floor permitted under planning ref. 17/37662.
- A drawing confirming the consolidated restaurant and ancillary bar ground floor is enclosed for your attention.

To conclude;

- No unauthorised development is underway or envisaged.
- The change-of-use of the former “George Mills” premises is permitted under planning ref. 17/37662.
- A scheme of internal refurbishment is underway to occupy the aforementioned increase in footprint and to alter the décor to better reflect the operational move from “fine-dining” to “bistro/casual” dining.
- No conservation concerns arise – no material alternation of any aspect of the architectural heritage is planned. No additional signage other than that permitted occurs.

I trust that this clarifies and concludes the matter.

Yours sincerely,

*p.p. Patrick O Toole*

Patrick O Toole, MRIAI

Meitheal Design Partners

15 Fr. Mathew Quay, Cork T12X OPR

021 422 6090 | [www.mdparchitects.ie](http://www.mdparchitects.ie) | [studio@mdparchitects.ie](mailto:studio@mdparchitects.ie)

# Comhairle Cathrach Chorcaí Cork City Council



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Brian McCutcheon  
McCutcheon Halley  
6 Joyce House  
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Ballincollig

27/09/2018

## **RE: R489/18 Section 5 Declaration Request for 27-29 Washington Street**

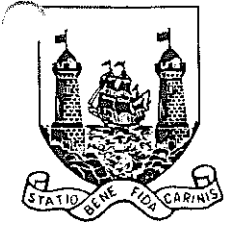
Dear Sir/Madam,

Please see attached correspondence sent to both the owner and occupier of the above property, seeking further information following your section 5 declaration request received by this office on 27/08/2018

Regards,

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Paul Hartnett  
Assistant Staff Officer  
**Strategic Planning & Economic  
Development Directorate**



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Paul Montgomery  
Moscato Ltd  
28 Washington Street  
Cork

27/09/2018

c.c. George McLellan, Kilfoylan Limited  
c.c. Brian McCutcheon, McCutchen Halley Planning Consultants

**RE: Section 5 Declaration Request for 27-29 Washington Street**

Dear Sir/madam,

A Section 5 Declaration request (under the Planning and Development Act 2000 (as amended)) has been received by the planning authority relating to the former “Rachel’s” restaurant at 27-29 Washington Street, Cork. Section 5 provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may request in writing from the relevant planning authority a declaration on that question.

The question relates to whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development.

Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit the following information to enable the planning authority to issue the declaration on the question:

- Clarify if the development being carried out would comply with the relevant permissions for the site (TP 16/36972 and TP 17/37662). In this regard full details should be submitted regarding the intended use i.e. extent of bar and restaurant use and works to the protected structure

Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

Regards,



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Assistant Staff Officer  
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6 Suffolk Street  
Dublin 2

27/09/2018

c.c. Paul Montgomery, Moscato Ltd  
c.c Brian McCutcheon, McCutchen Halley Planning Consultants

**RE: Section 5 Declaration Request for 27-29 Washington Street**

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The question relates to whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development.

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- o Clarify if the development being carried out would comply with the relevant permissions for the site (TP 16/36972 and TP 17/37662). In this regard full details should be submitted regarding the intended use i.e. extent of bar and restaurant use and works to the protected structure

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

Regards,



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Paul Hartnett  
Assistant Staff Officer  
**Strategic Planning & Economic  
Development Directorate**



## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R 489/18

**Description:** Whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development

**Applicant:** Brian McCutcheon on behalf of Kmont Property Holdings Limited

**Location:** Former Rachel’s Restaurant, 27-29 Washington Street, Cork

**Date:** 27/09/2018

### SUMMARY OF RECOMMENDATION

**Request further information**

### PURPOSE OF REPORT

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

### DESCRIPTION OF SITE

The subject site is located at the southern side of Washington Street and forms part of the block with Little Cross Street to the east and Hanover Street to the south. There is an existing, three-storey building located on site. Nos. 27-29 are protected structures and are located within the North Main Street Architectural Conservation Area. The site includes the former Rachel’s Restaurant which is now closed and part of the first floor area.

### STATUTORY PROVISIONS

The exemption status of the subject works and use is appropriately assessed by the following provisions:

- Section 3(1) of the Planning and Development Act, 2000 (as amended) (“the Act”) establishes that **development** means “except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.”
- Section 2(1) of the Act establishes that **works** “includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.”
- Section 4(1)(h) establishes that “The following shall be exempted developments for the purposes of this Act... development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;
- Section 57(1) states that the carrying out of works to a protected structure would only be exempted development under Section 4(1)(h) if those works would not materially affect the character of (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
- Section 4(2) of the Act provides that the Minister may make regulations that provide for exempted development.

- Article 6(1) of the Planning and Development Regulations, 2001 (as amended) (“the Regulations”) establishes that, subject to other specified conditions and limitations, classes of development specified in Schedule 2, Part 1 of the Regulations constitute exempted development.

### **Restrictions on exemption**

- Article 9 of the Regulations
- Article 9(1)(a)(i)

Development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

- Article 10 of the Regulations
  - Article 10(1)
 

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

    - (a) involve the carrying out of any works other than works which are exempted development,
    - (b) contravene a condition attached to a permission under the Act,
    - (c) be inconsistent with any use specified or included in such a permission, or
    - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

### **PLANNING HISTORY**

- 17/37662** Permission granted for retention for the as constructed extension to the permitted restaurant and ancillary bar premises known as Rachel's Restaurant (Ref: 16/36972). This comprises an increase in gross floor area of 21sq.m. Planning Permission is being sought for the following: 1) the change of use of part of the ground floor (65sq.m) from office use (formerly George Mills Solicitors) for inclusion in the permitted restaurant and ancillary bar premises - 65sq.m. 2) change of use of part of the first floor (112sq.m) from office use (formerly George Mills Solicitors) to restaurant and ancillary bar use supporting the permitted ground floor restaurant and ancillary bar (16/36972). 3) minor elevational changes & 4) connections to all relevant services. The proposed works will be carried out to a protected structure PS 1096/1097.
- 16/36972** Permission granted for a development at 27-29 Washington Street, Cork City. The development will comprise of the following: 1) the change of use of part of the ground floor from retail to restaurant/bar use, 2) increase the width of the existing side door to the east elevation, 3) the removal of a window and the formation of a new door to the south elevation, 4) the provision of extract ducting to the rear, 5) connections to all relevant services & 6) provision of ancillary signage. The proposed works will be carried out to a protected structure PS 1096/1097.
- 12/35180** Permission granted for change of use of part of ground floor of 27 - 29 Washington Street, Cork, a Protected Structure, from previous use as retail to coffee shop and private members club, incorporating gaming and leisure, and for internal alterations.
- 10/34635** Permission refused for change of use of part of the ground floor of 27- 29 Washington Street, Cork being a protected structure, from retail to gaming and leisure, incorporating a Private Members Club and for internal alterations.

### **Assessment**

A request for a Section 5 declaration is being made by Brian McCutcheon (McCutcheon Halley Chartered Planning Consultants) on behalf of Kmont Property Holdings Limited of 24-26 Washington Street in relation to a property at 27-29 Washington Street. As this is a third party request, by a person or party who is not the

owner of the land in question, it is recommended that the owner and occupier of the land be requested under Section 5(2)(c) of the Act to submit any information that may be relevant for the planning authority to issue the declaration.\*

The question on which the declaration is sought relates to the following: whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development. The applicant states that it has been advised that the developers intend to reopen the premises as a pub/restaurant where the sale of food is ancillary to the primary use for the sale of alcohol and as a result, the floorspace allocated for bar use would extend well beyond the area demarcated as part of permission reference numbers: 16/36972 and 17/37662.

Condition 2 of TP 16/36972 for the change of use of part of the ground floor from retail to restaurant/bar use, states that: *the use shall be restricted to a restaurant with ancillary bar in the area so indicated and the premises shall not be used as a fast-food takeaway/restaurant.* The bar area is clearly shown on the floor plan as an area to the rear of the property adjacent to Little Cross Street and Hanover Street.

Condition 2 of TP 17/37662 for the change of use of part of the ground floor (65sq.m) from office use (formerly George Mills Solicitors) for inclusion in the permitted restaurant and ancillary bar premises - 65sq.m. and change of use of part of the first floor (112sq.m) from office use (formerly George Mills Solicitors) to restaurant and ancillary bar use supporting the permitted ground floor restaurant and ancillary bar (16/36972), also states that: *the use shall be restricted to a restaurant with ancillary bar in the area so indicated and the premises shall not be used as a fast-food takeaway/restaurant.*

It was evident on the day of the site visit (26/09/18) that works were being carried out within the premises, however the extent of which is unclear. It is also unclear what the developer intends the premises to be used for when it re-opens. Condition 5 of TP 17/37662 (if this relates to the work being undertaken) requires the works be supervised by an experienced registered architect/conservation consultant. It is unclear if this is the case. Section 57(1) of the Act also states that the carrying out of works to a protected structure would only be exempted development under Section 4(1)(h) if those works would not materially affect the character of (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. The developer should be requested to clarify the extent of the works being carried out, whether this relates to the permission granted under TP 17/37662 or if additional works are being carried out outside the scope of this.

The developer should also be requested to clarify the intended use of the premises and whether it falls within the scope of the permitted development on site (TPs 16/36972 and 17/37662) with regard to restaurant use and the extent of the bar area.

## **Recommendation**

**Request further information** under Section 5(2)(c) of the Act as follows:

Please write to the occupier of the property (Paul Montgomery, Moscato Limited, 28 Washington Street, Cork) **and** the owner of the property (George McLellan, Kilfoylan Vale Limited, 6 Suffolk Street, Dublin 2), **and** send a copy to: Brian McCutcheon, McCutcheon Halley, 6 Joyce House, Barrack Square, Ballincollig Co. Cork as follows:

*A Section 5 Declaration request (under the Planning and Development Act 2000 (as amended)) has been received by the planning authority relating to the former "Rachel's" restaurant at 27-29 Washington Street, Cork. Section 5 provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may request in writing from the relevant planning authority a declaration on that question.*


*The question relates to whether the use of any of the floor space outside the area outlined in blue on the approved ground floor plan as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development.*

Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit the following information to enable the planning authority to issue the declaration on the question:

- Clarify if the development being carried out would comply with the relevant permissions for the site (TP 16/36972 and TP 17/37662). In this regard full details should be submitted regarding the intended use i.e. extent of bar and restaurant use and works to the protected structure

Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

  
Brigh Ryan  
Acting Executive Planner

G. Wynn (SEP)  
27.09.2018

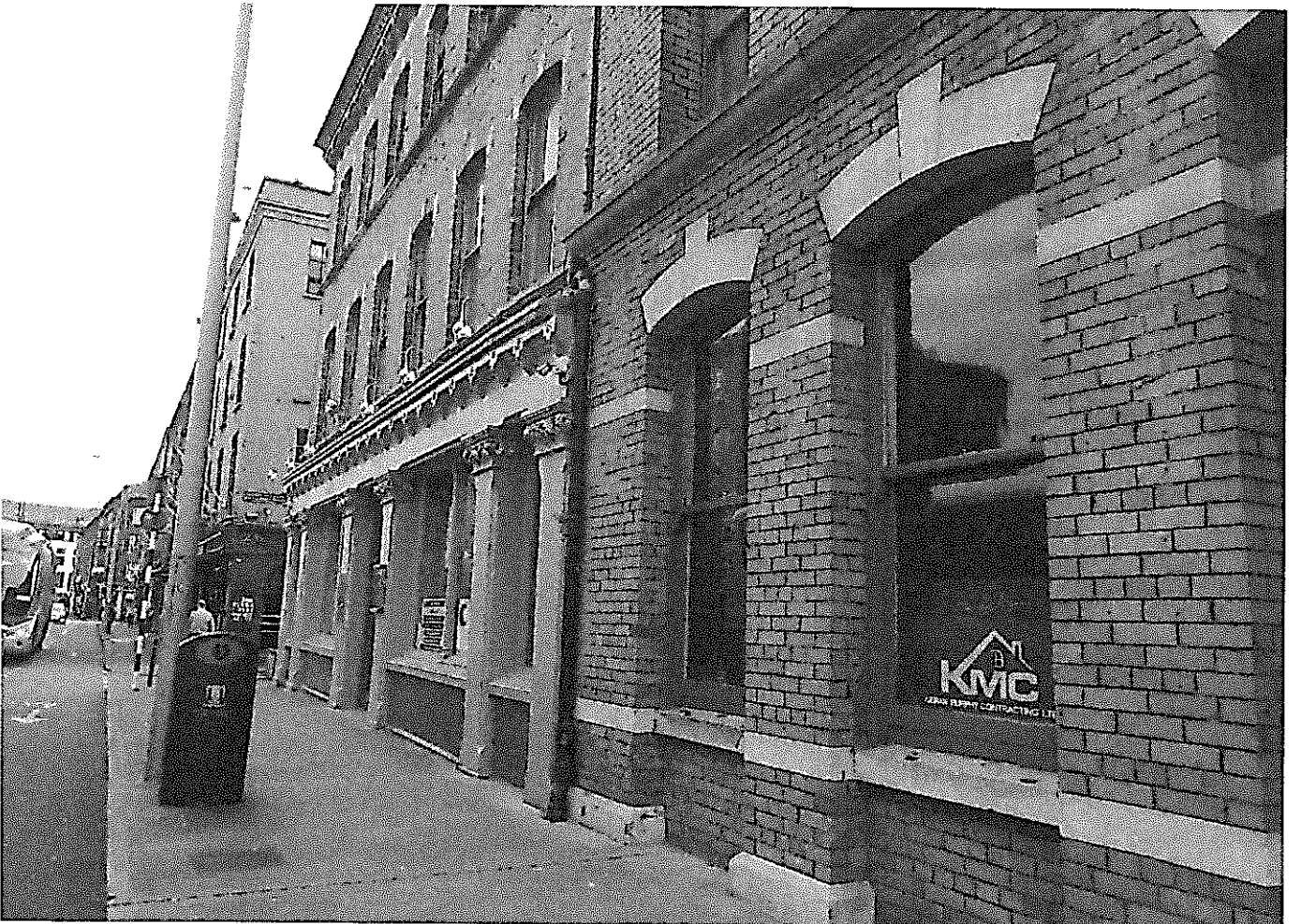
nature + extent of

\* While the provisions of the Act are clear in that "any person" may request a section 5 declaration from a planning authority (subject to certain requirements such as the payment of the fee, etc), and that the planning authority is fully entitled to process and determine a section 5 declaration application in these circumstances subject to notifying the person who made the request and the owner and occupier of the land in question of its decision, regard must be had to the principle of "audi alteram partem" (Latin for 'hear the other side').

This was highlighted in a case relating to a section 5 declaration issued in 2011 by the planning authority under reference R 298/11, where the declaration was requested by a person who had no legal interest in the affected property.

It is now understood that, notwithstanding the provisions of section 5 of the Act, the owner and occupier of lands that are the subject of a section 5 declaration request where the request was made by another person or party should be notified and afforded an opportunity to make submissions or observations to the planning authority before a decision is made on the request.

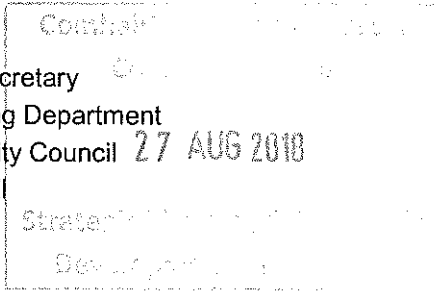
Under the most recent planning application for this site (TP 17/37662), the occupier appears to be: Paul Montgomery of Moscato Limited, 28 Washington Street, Cork. The owner appears to be: George McLellan (Director), Kilfoylan Vale Limited, 6 Suffolk Street, Dublin 2.







The Secretary  
Planning Department  
Cork City Council  
City hall  
Cork



27 AUG 2018

27 August 2018

**Re: Request for a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended). Proposed Alterations to and Change of Use of the former Rachel's Restaurant at 27-29 Washington Street, Cork**

Dear Sir/Madam,

We act for Kmont Property Holdings Limited of 24-26 Washington Street, Cork and submit on their behalf this request for a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended). We enclose the statutory fee of €80.

The Declaration is sought in relation to the property at 27-29 Washington Street, Cork which is outlined in red on the map which attached as Appendix 1. According to the most recent planning application on the site, the property is owned by Kilfoylan Vale Ltd of 2<sup>nd</sup> Floor, 6 Suffolk Street, Dublin 2 and is occupied by Moscato Ltd. of 28 Washington Street, Cork, trading as Rachel's Restaurant. The restaurant is no longer in operation and there are significant works in progress which we believe may be outside the scope of the extant permissions on the site. We also believe that the works are being carried out to facilitate a material change of use which would also be outside the scope of the extant permissions.

**Recent Planning History**

- Planning permission was refused to Kilfoylan Vale Ltd under Planning Register Ref. No. 10/34635 and PL 28.238363 for internal alterations and change of use from retail to gaming and leisure.
- Planning permission was granted to Kilfoylan Vale Ltd under Planning Register Ref. No. 12/35180 for internal alterations and a temporary (3 year) change of use from retail to coffee shop and private members club (incorporating gaming and leisure).
- Planning permission was granted to Kilfoylan Vale Ltd. under Planning Register Ref. No.16/36972 for alterations and change of use from retail to restaurant/bar use.
- Planning permission was granted to Moscato Ltd under Planning Register Ref. No.17/37662 for retention of an extension to the permitted restaurant and ancillary bar and for alterations and change of use from offices to restaurant and ancillary bar use to support the restaurant and ancillary bar permitted under 16/36972

[www.mhplanning.ie](http://www.mhplanning.ie)

McCutcheon Halley is a limited partnership registered under the Limited Partnerships Act, 1907, registration no. LP512. Registered in Ireland No. 326490. Registered office: 6 Joyce House, Barrack Square, Ballincollig, Co. Cork. Directors: Brian McCutcheon, BA(Econ) DipTP DipGIS MIPi (Chairman), Tom Halley, BA(Mod), MRUP BSc ARCH(Hons) Cert. Civil Eng. MIPi.

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The permission granted under 12/35180 was not implemented and expired in June 2017. The permission granted under 16/36972 was implemented in full as the restaurant operated for more than a year. We have been advised that the permission granted under 17/37662 was only implemented to the extent that it included retention of an unauthorised extension to the kitchen.

As there are no further extant permissions on the site, the ongoing works, and the intended use of the ground floor of the premises, must fully comply with the conditions, plans and particulars of the permission granted under 16/36972.

## Planning Policy Framework

The site is located in the City Centre Retail Area (CCRA). The existing building is a protected structure (RPS 1096 and 1097) and the site is located within the North Main Street Architectural Conservation Area (ACA).

Land Use Zoning Objective Z01 states that it is an objective of the CCRA *“to provide for the protection, upgrading and expansion of retailing, in particular higher order comparison retailing, as well as a range of other supporting uses in the City Centre retail area”*

Paragraph 15.7 explains that retailing is prioritised in this area but not to the exclusion of other land use types such as residential, hotel, office and cultural and leisure facilities, which complement the retail function of the CCRA and promote vibrancy in the City Centre.

Objective 13.8, which sets out the policy on Leisure and Entertainment Uses, states that:

*The City Council will support the development of leisure and entertainment facilities such as restaurants, public houses, music and dance venues, visitor attractions and other leisure facilities in the City Centre to facilitate the needs of residents and visitors and contribute to the vibrancy of the area. Applications for new development will be treated on merit but discouraged in areas where conflicts with established residents are likely to arise. The Cork City Council will control location, size and activities of entertainment uses that are likely to attract large numbers in order to safeguard residential amenity, environmental quality and the established character of parts of the City Centre.*

Within the category of leisure and entertainment uses, the City Plan makes a distinction between the planning assessment of cafes/restaurants and pubs/night clubs.

Paragraph 16.82 states that

*The positive contribution of cafés and restaurants and the clusters of such uses to the vitality of the city is recognised. The following (but not limited to) shall be considered in assessing applications for cafés/restaurants:*

- *The effect of fumes, hours of operation, and general disturbance on nearby amenities and residents;*
- *Traffic implications resulting from the proposed development including any parking requirements;*
- *Waste storage facilities;*
- *Adequate and safe delivery areas;*
- *Any proposed advertising/lighting is suitable and unobtrusive. Any advertising/signage should be removed on the cessation of operation of the business.*



Paragraph 16.96 states that:

*Public houses and night clubs etc play an important role in the city providing a night-time use which adds to the attractiveness of the city. The City Council's approach to such developments in the City Centre and Docklands is outlined in Chapter 13. (Objective 13.8 Leisure and Entertainment Uses.) Cork City Council shall ensure all applications for new or extensions of existing uses such as public houses, other licensed premises, nightclubs, disco-bars and dance floors protect residential and visual amenity. They will not be permitted in residential areas. **An over-predominance of these uses in any particular area, whether through redevelopment, refurbishment or extension will not be permitted.** In applications for such developments the onus will be on the applicant to demonstrate that the proposed new entertainment use, an extension to an existing entertainment use or variation in opening hours would not cause harm to residential or adjoining amenity, environmental quality or the established character and function of the area (emphasis added).*

## Implementation of the Policy Framework in the Extant Permissions

This policy framework was implemented in the permissions granted under 16/36972 and 17/37662 by making a clear distinction between the primary use of the premises as a restaurant and the ancillary use as a bar. This was achieved by specifying that the bar shall be ancillary to the restaurant and shall be confined to a designated area of the floorplan.

The Planners Report of 07/09/2016 on 16/37662 noted that:

*"No detailed information has been submitted with the application regarding the type of restaurant proposed, the extent of the bar area and whether or not this is ancillary to the restaurant use. With regard to policy on café/restaurants and public houses set out in the Development Plan (paragraphs 16.82 and 16.96 and Objective 13.8); further details are required to clarify the exact nature of the use. The extent of the bar proposed should be clarified in order to prevent the development of a super-pub or nightclub and a fast food restaurant, of which there is already an excessive concentration on Washington Street, would be contrary to the provisions of the Development Plan in this regard".*

The applicant was therefore requested to submit full details of the type of restaurant/bar proposed including the extent of the bar area proposed (which was to be clearly delineated and shown on the floor plan) and to clarify whether or not the bar use would be ancillary to the restaurant.

In response the applicant submitted the floor plan which is attached as Appendix 2. This shows that the bar/lounge/waiting area is to be confined to the area measuring 75m<sup>2</sup> which is outlined in blue in the south east corner of the premises. The applicants cover letter also confirmed that the premises would be operated as a 120-seat casual/fine dining restaurant and that *"the bar/lounge will operate as an ancillary entity to that of the restaurant"*.

The Planner's Report on the further information noted that:

*"the bar/lounge/waiting area has been increased slightly from what was previously shown, however the changes are not considered materially significant in this regard and are acceptable".*

Permission was therefore recommended subject to a condition (no. 2) which specified that *"the use shall be restricted to a restaurant with ancillary bar in the area so indicated on the plans and particulars"*.

Under Planning Register Ref. No.17/37662, an application was made to extend the permitted restaurant and ancillary bar at ground and first floor level by changing the use of the former offices of George Mills Solicitors. At ground floor level the development was described as a change of use from offices **for inclusion in the**

**permitted restaurant and ancillary bar premises (16/36972).** At first floor level the development was described as the change of use from office **to restaurant and ancillary bar use supporting the permitted ground floor restaurant and ancillary bar (16/36972).**

The permission granted under 17/37662 is subject to a condition (no. 2) which specifies that “*the use shall be restricted to a restaurant with ancillary bar in the area so indicated on the plans and particulars*”. As the change of use proposed under 17/37662 was described as being for inclusion in, and in support of, the restaurant and ancillary bar permitted under 16/36972 and, further, as there is no additional area specifically designated as an ancillary bar within the drawings submitted under 17/37662, Condition 2 of 17/37662 can only be interpreted to mean that any ancillary bar use provided for the restaurant as extended under 17/37662 is confined to the area indicated on the plans and particulars approved under 16/36972.

## The Question on Which the Declaration is Sought

A planning issue has arisen in relation to the ongoing alterations and change of use of the premises for which permissions were granted by Cork City Council under Planning Register Ref. Nos. 16/36972 and 17/37662. We have been advised that the developers intend to reopen the premises as a pub/restaurant where the sale of food is ancillary to the primary use for the sale of alcohol. As a result, the floorspace allocated for bar use will extend well beyond the area demarcated on the extant permissions.

The question on which the Section 5 Declaration is sought is whether the use of any of the floorspace outside the area outlined in blue on the approved ground floor plan (attached as Appendix 2) as a separate bar or to provide additional ancillary bar space for the permitted restaurant use would, or would not, be development and would, or would not, be exempted development.

We request the Planning Authority to issue a Declaration that the use of any of the floorspace outside the area outlined in blue as a separate bar or to provide additional ancillary bar space for the restaurant use:

- (a) would be development as it would be a material change from the existing and permitted use of that floorspace primarily as a restaurant;
- (b) would not be exempted development as the change of use would contravene Conditions 2 of the permissions granted under Planning Register Ref. Nos. 16/36972 and 17/37662; and
- (c) would not be exempted development as change of use would be inconsistent with the use specified by the applicant for the subject floorspace in the extant permissions.

## Planning Assessment

There are two key issues to be addressed in considering the question on which the Declaration is sought:

1. Is the change of use material?
2. Could the change of use be exempt under the Planning Act or Regulations?

### Materiality

The test of the “materiality” of a change of use is addressed in the judgements of Barron J. in *McMahon v Dublin Corporation* and *Galway County Council v Lackagh Rock Ltd*. These cases established that there are two criteria:

- (i) whether the essential character of the use has changed; and
- (ii) whether the change of use has any effects on the environment of the site.

It is clear from the planning reports on the previous applications on the site that each application was subject to careful assessment of the precise nature of the use. In the case of 10/34635 permission was refused by An Bord Pleanála change of use from retail to gaming and leisure on the grounds that the nature of the proposed development would seriously injure the vitality and viability of the City Centre. A subsequent application under 12/35180 for a mix of coffee shop and gaming and leisure uses was granted a temporary permission. This demonstrates that what might appear to be a relatively minor shift in the range of activities can have a significant change in the nature of the overall use from a planning viewpoint.

We have already referred to the Planning Authority's assessment of the response to the request for further information on 16/36972 where the Planning Officer considered the potential impact of a slight increase in the bar/lounge/waiting area. This confirms that, where a property is used for a mix of restaurant and bar uses, any change in the balance between the restaurant and bar uses could change the essential nature of the development from a planning viewpoint.

In regard to the subject property, we have been advised that the ongoing works may be designed to facilitate not only a significant increase in the floorspace allocated to the ancillary bar use but also the replacement of the primary restaurant use by "an old-style pub" with an ancillary restaurant use

The second criterion in regard to materiality is whether the change of use would have planning consequences beyond the boundary of the site. In our opinion the potential implications of a change of use from a restaurant with an ancillary bar to an old-style pub with an ancillary restaurant are:

- (i) extension of opening hours;
- (ii) increased use of amplified music;
- (iii) increasing dominance of pub/nightclubs in this area;
- (iv) increasing proliferation of advertising and signage with a detrimental effect on the Protected Structures and the Architectural Conservation Area.

It is important to emphasise that what is at issue in considering the request for a Section 5 Declaration is not whether a change of the balance of the permitted uses should or should not be permitted but whether the change may be implemented as exempted development without any assessment of:

- (a) compliance with the City Development Plan;
- (b) impact on the character of the Protected Structures; and
- (c) impact on the amenities of adjacent properties.

In this submission, we are not arguing that that there should be no change in the balance of the permitted uses but rather that any change in the balance of uses should be subject to an appropriate level of assessment through the planning application process.

### Restrictions on Exemptions

Article 10(1) of Part 2 of the Planning and Development Regulations 2001 (as amended)<sup>1</sup> provides that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 shall be exempted development provided the development would not:

- (a) *Involve the carrying out of any works other than works which are exempted,*
- (b) *Contravene a condition attached to a permission under the Act,*
- (c) *Be inconsistent with any use specified or included in such a permission, or*

<sup>1</sup> Hereafter referred to as 'the Planning Regulations'

- (d) *Be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned*".

Article 10 does not actually apply in this case because none of the classes of use in Part 4 of Schedule 2 include restaurants or bars. However, it should be noted that, even if the proposal involved a change within one of the classes of use it would not be exempt for the following reasons:

(a) Non-exempted status of the works

Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)<sup>2</sup> exempts

*"development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures"*

This exemption would normally be used to cover the internal fit-out and the alterations to the shop front and signage which would usually be required to facilitate the change of use of premises from one type of restaurant to another. However, in this case the building is a protected structure and Section 57(1) of the Planning Act states that the carrying out of works to a protected structure would only be exempted development under Section 4(1)(h) if those works would not materially affect the character of the structure or any element of the structure that contributes to its special interest.

That fact that the alterations required for the previous use as Rachel's Restaurant were permitted by the Planning Authority does not mean that further alterations can be carried out without permission. In our opinion no works should be carried out to a protected structure without seeking a Declaration under Section 57(2) of the Planning Act.

(b) Contravention of planning conditions

As previously noted, Conditions 2 of the permissions granted under Register Ref. Nos. 16/36972 and 17/37662 require that "the use shall be restricted to a restaurant with ancillary bar in the area so indicated on the plans and particulars". Any alteration in the location or extent of the ancillary bar use would contravene these conditions and would therefore require planning permission.

(c) Inconsistency with use specified in permissions

Under Planning Register Ref. No. 16/36972, the Planning Authority requested full details of the type of restaurant /bar proposed including the type of food offering and the relationship between the bar and restaurant. In response the applicant undertook that the premises would be used as a 120-seat casual/fine dining restaurant with an ancillary lounge/bar/waiting area. This specification of the ancillary nature of the bar use forms part of the permitted plans and particulars. Condition 1 of both permissions requires the development to be carried out in accordance with the plans and particulars unless otherwise altered or amended by the other conditions attached to the permission.

Any use of the premises which would not fall within the description of a fine dining restaurant with a small ancillary bar/waiting area would be inconsistent with this specified use and would not be exempted development.

<sup>2</sup> Hereafter referred to as 'the Planning Act'

## Summary and Conclusion

It has been reported that the protected structure at 27–29 Washington Street, Cork is currently being altered in order to facilitate a change of use to an old-style pub.

We believe that the change of use would be material because it would change the nature of the permitted use, contravene the zoning objective for the area and have significant effects on the amenities of the area.

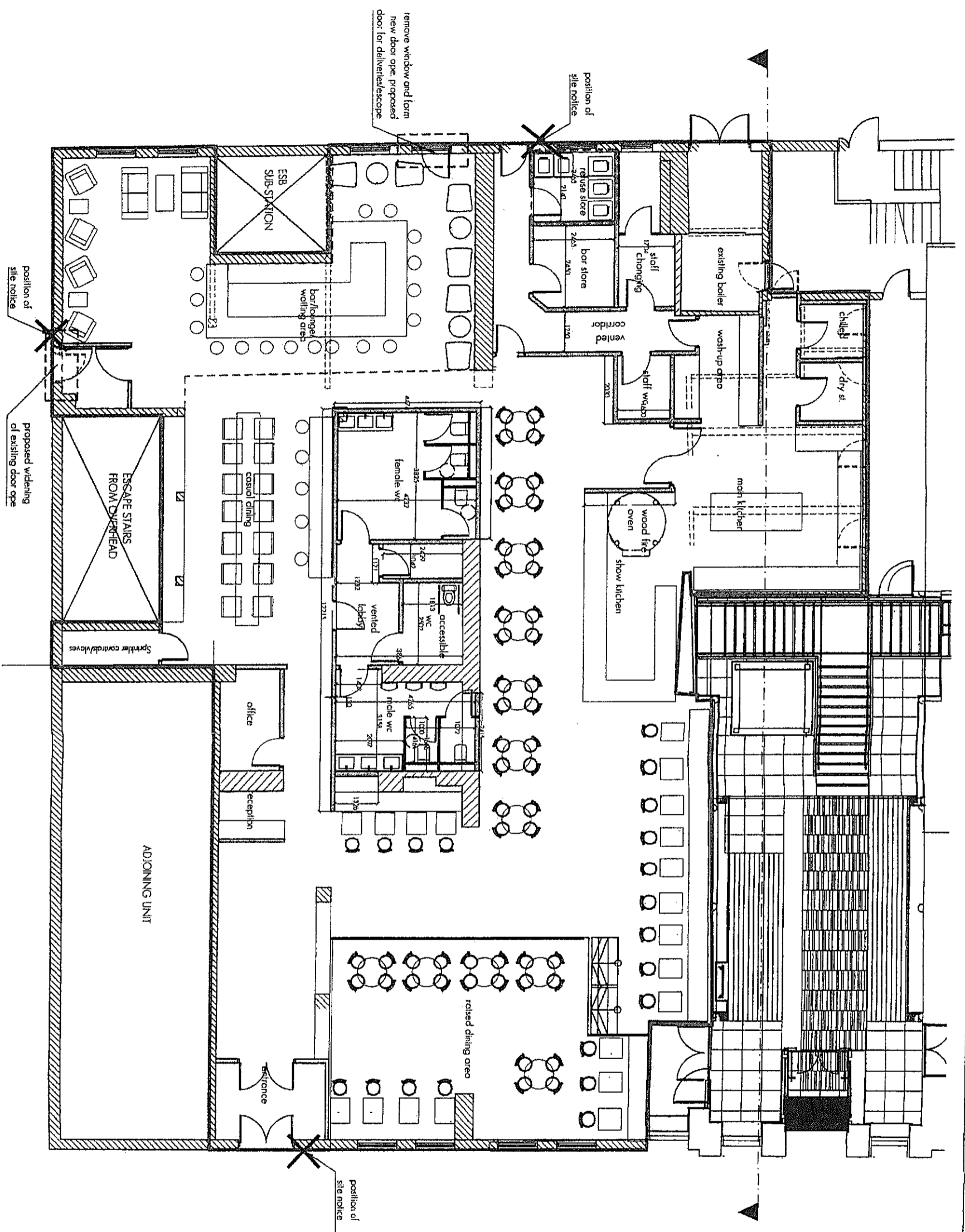
As the alterations appear to be designed to alter the balance between the permitted restaurant and the ancillary bar uses they would directly contravene Conditions 1 and 2 of the permissions granted under Planning Register Ref. Nos. 16/36972 and 17/37662

A Section 5 Declaration is sought to clarify that planning permission is required if any floorspace outside the area specified in Condition 2 of 16/36972 is used to provide any separate bar areas or any additional ancillary bar space for the primary restaurant use.

Yours sincerely,



Brian McCutcheon  
McCutcheon Halley



proposed floor plan  
1:125

- area to which the application relates c.528sqm
- indicates demolition
- indicates proposed walls
- indicates proposed elevated chairseats
- indicates proposed bar/lounge/waiting area - 7.3sqm
- indicates proposed refuse storage - 5.2sqm

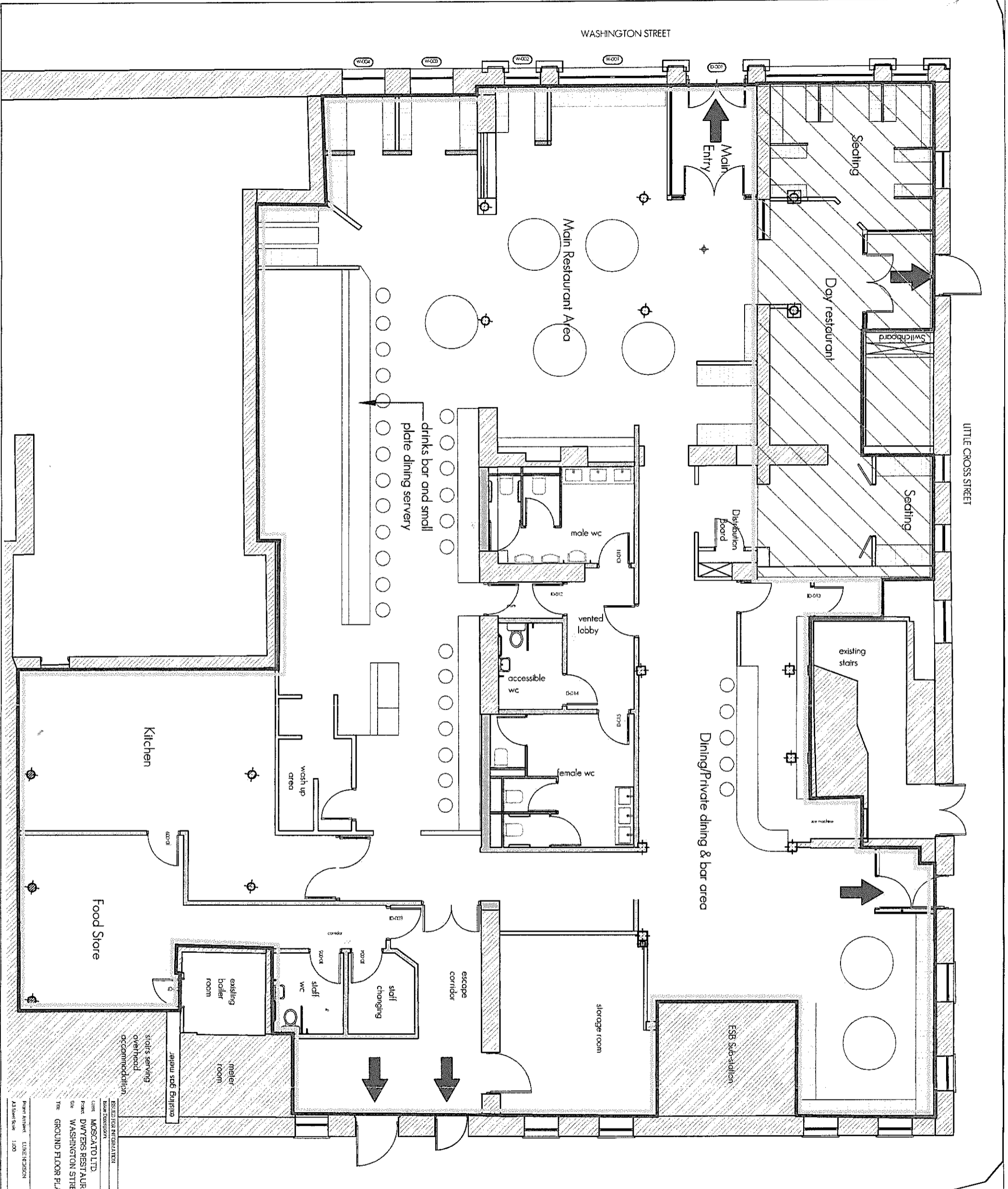
CORK CITY COUNCIL  
PLANNING DIRECTORATE  
16 SEP 2016  
Ref. No. 16/36972

REGULATED DESIGNER AND ORIGINATOR  
 Name: RICHYAN VALE LTD  
 Address: PROPOSED RESTAURANT/BAR  
 27-29 WASHINGTON STREET, CORK  
 GENERAL ARRANGEMENT  
 PROPOSED FLOOR PLAN

Project No: 16219-PLA-003  
 P2

PLM, ARCHITECTS  
 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

THIS IS A PLANNING PERMIT APPLICATION FOR THE FURTHER DEVELOPMENT AND STRENGTHENING OF THE BUILDING REGULATIONS AND STANDARDS.



**LEGEND**

- Total combined licensed area
- Licensed area 570.5m<sup>2</sup>
- Planning reference 17/37662 69m<sup>2</sup>
- Planning reference 16/36972 488m<sup>2</sup>

**MEITHEAL**  
design partners

**MOSCATO LTD**  
Project: DWYERS RESTAURANT & BAR  
Site: WASHINGTON STREET CORK

**GROUND FLOOR PLAN**

Project Architect: LUKE HUGHES  
Approved Date: 11/03

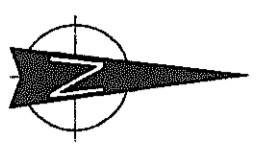
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DATE: 11/03/2015  
DRAWN: checked date: 14/03/2015

17212 - SKE - 002 B

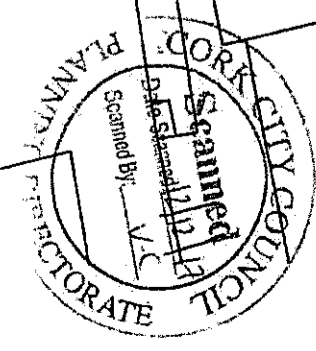
THIS DRAWING IS FOR PLANNING PURPOSES ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION AND DOES NOT CONSTITUTE A CONTRACT. THE CLIENT ACCEPTS ALL RESPONSIBILITY FOR OBTAINING ALL NECESSARY BUILDING REGULATIONS AND STANDARDS.

# Appendix 1



**SITE PLAN**  
1:500  
SITE OUTLINED IN RED

**CORK CITY COUNCIL**  
Catharine Cathrach Chorrai  
Cork City Council  
06 DEC 2017  
Strategic Planning & Economic Development Directorate

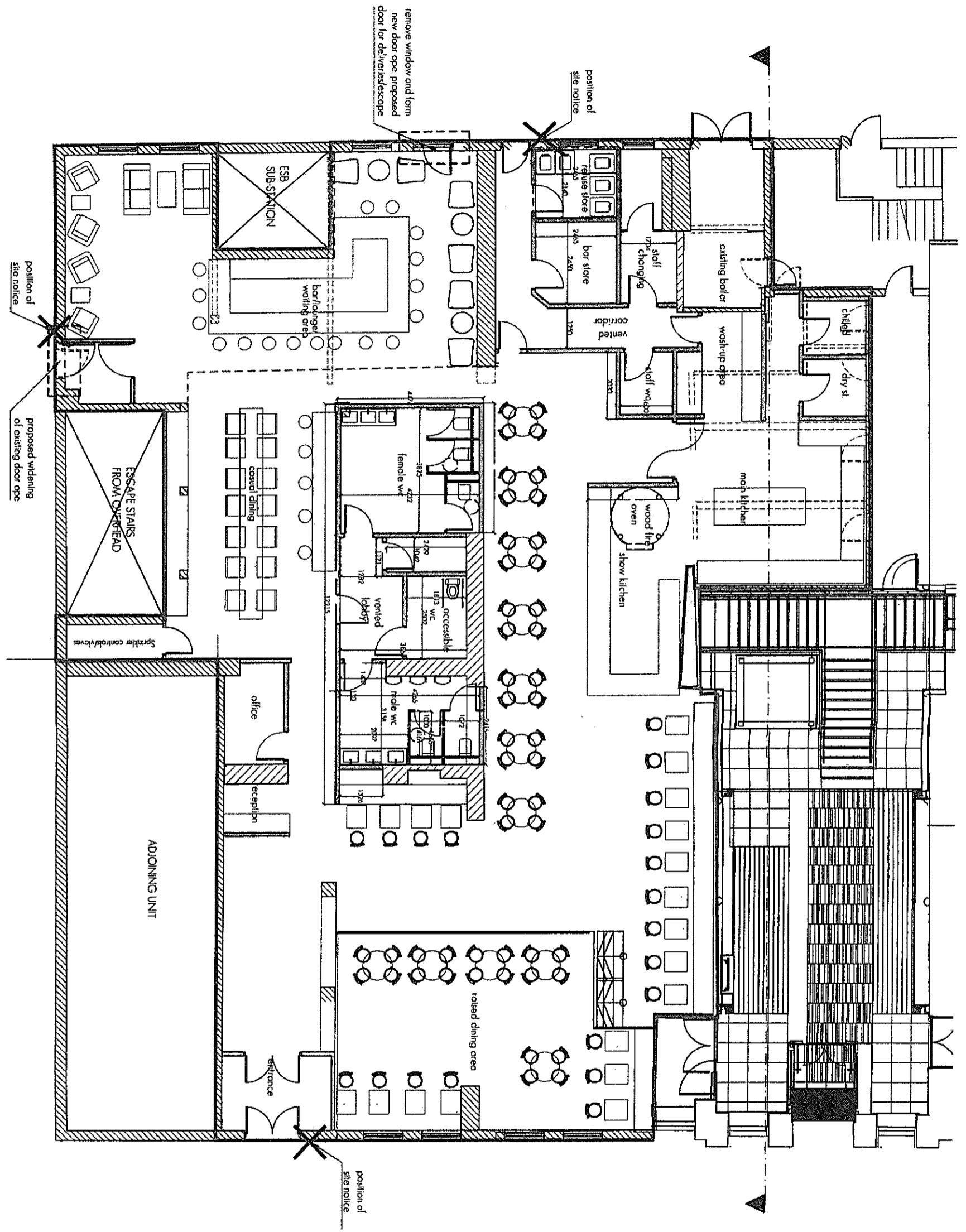


DESIGNED FOR PLANNING PERMISSION  
Client: MOSCATO LIMITED  
Project: RETENTION & PROPOSED WORKS  
Site: 27-29 WASHINGTON STREET, CORK  
Title: GENERAL ARRANGEMENTS  
SITE PLAN

Meitheal  
design partners

Project No: 17212 - PLA-001  
Issue: A



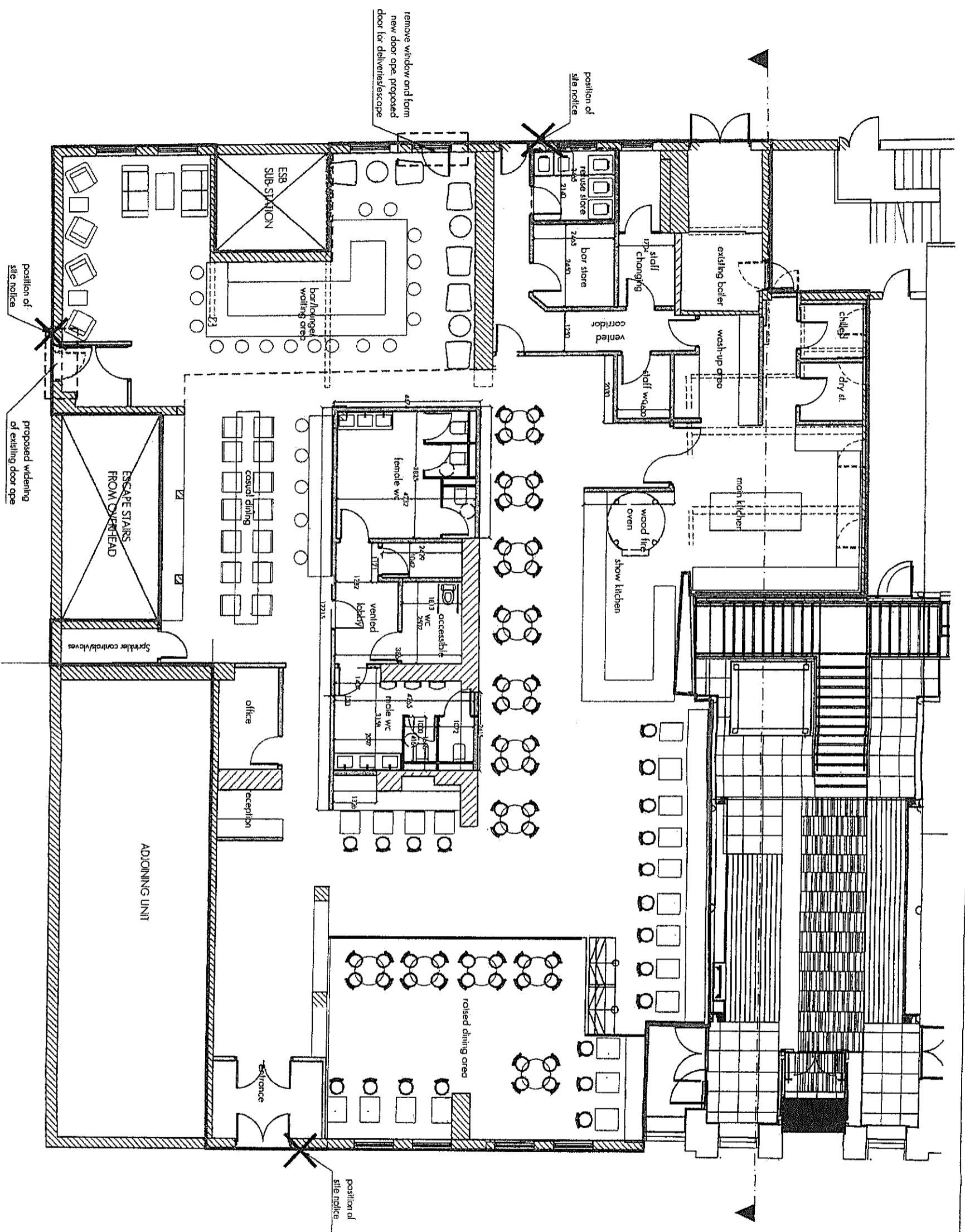


proposed floor plan  
1:125

- area to which the application relates c.528sqm
- indicates demolition
- indicates proposed walls
- indicates proposed elevator shaft/risers
- indicates proposed bar/lounge/waiting area - 735sqm
- indicates proposed refuse storage - 52sqm

CORK CITY COUNCIL  
PLANNING DIRECTORATE  
16 SEP 2016  
Ref. No. 16/36972

PROJECT: RESTAURANT/DRINKERY  
 Client: KILDRAN VALE LTD  
 Project: PROPOSED RESTAURANT/BAR  
 27-29 WASHINGTON STREET, CORK  
 14 GENERAL ARRANGEMENT  
 PROPOSED FLOOR PLAN  
 P1.M. ARCHITECTS  
 Call: 0151-4666-000 / Fax: 0151-4666-000  
 16219-PIA-003 P2



proposed floor plan  
1:125

- area to which the application relates c.528sqm
- - - - - indicates demolition
- ▬▬▬▬▬▬▬ indicates proposed walls
- ▬▬▬▬▬▬▬ indicates proposed elevations/alterations
- - - - - indicates proposed bar/lounge/waiting area - 73sqm
- - - - - indicates proposed refuse storage - 52sqm

CORK CITY COUNCIL  
PLANNING DIRECTORATE  
16 SEP 2016  
Ref No. 16/36972

EXISTING INFORMATION  
Client: KIROULAN VALE LTD  
Project: PROPOSED RESTAURANT/BAR  
No. 77-79 WASHINGTON STREET, CORK  
1st GENERAL ARRANGEMENT  
PROPOSED FLOOR PLAN

PLM, ARCHITECTS  
Car D'Armes Quay, Cork, T01 423 0090  
100-102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000

16219-PIA-003 P2